

AMENDED IN ASSEMBLY MAY 27, 2008  
AMENDED IN SENATE JANUARY 23, 2008  
AMENDED IN SENATE JANUARY 9, 2008  
AMENDED IN SENATE JANUARY 7, 2008  
AMENDED IN SENATE APRIL 10, 2007

**SENATE BILL**

**No. 685**

---

**Introduced by Senator Yee**  
**(Coauthor: Senator Padilla)**  
*(Coauthor: Assembly Member Galgiani)*

February 23, 2007

---

An act to repeal and add Section 15212 of the Probate Code, relating to pet trusts.

LEGISLATIVE COUNSEL'S DIGEST

SB 685, as amended, Yee. Pet trusts.

Existing law provides that a trust for the care of a designated domestic or pet animal may be performed by the trustee for the life of the animal, whether or not there is a beneficiary who can seek enforcement or termination of the trust and whether or not the terms of the trust contemplate a longer duration.

This bill would repeal the provisions regarding domestic or pet animal trusts and would provide instead that a trust for the care of a designated domestic or pet animal is for a lawful noncharitable purpose and terminates when no *living designated animal is living* on the date of the ~~trustor's settlor's death is covered by the trust~~, unless otherwise provided in the trust and subject to certain requirements. The bill would require a court to liberally construe a pet trust to bring it within the bill's

provisions, to presume against an interpretation that would render the disposition a mere request or an attempt to honor the pet, and to carry out the general intent of the trust. The bill would provide an order of disposition of trust property upon termination of the trust and would provide authority for the court to name a trustee and to transfer trust property, as specified. This bill would permit ~~a~~ *any* person interested in the welfare of the pet animal or any nonprofit charitable organization ~~whose that has as its principal activity is the care of animals to apply to the court for appointment as trustee or for removal of a trustee petition the court regarding the trust, as specified.~~ The bill would provide a process for an accounting of the trust, to be waived if the value of the pet trust assets ~~do~~ *does* not exceed ~~\$5,000~~ *\$40,000, as specified.* The bill would ~~require termination of a trust for the care of a covered domestic or pet animal that has a life span of 21 years of age or greater when that animal dies~~ *permit beneficiaries of the trust, a person designated by the trust, or certain nonprofit charitable organizations, upon reasonable request, to inspect the animal, the premises where the animal is maintained, or the books and records of the trust. The bill would except these trusts from the application of specified provisions generally regarding the termination of trusts.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 15212 of the Probate Code is repealed.
- 2 SEC. 2. Section 15212 is added to the Probate Code, to read:
- 3 15212. (a) Subject to the requirements of this section, a trust
- 4 for the care of a designated domestic or pet animal is a trust for a
- 5 lawful noncharitable purpose. Unless expressly provided in the
- 6 trust, ~~and subject to Section 15211,~~ the trust terminates when no
- 7 *designated* animal living on the date of the ~~trustor's~~ *settlor's* death
- 8 ~~is covered by the trust~~ *remains alive.* The governing instrument
- 9 of the animal trust shall be liberally construed to bring the trust
- 10 within this section, to presume against the merely precatory or
- 11 honorary nature of the disposition, and to carry out the general
- 12 intent of the ~~trustor~~ *settlor*. Extrinsic evidence is admissible in
- 13 determining the ~~trustor's~~ *settlor's* intent.
- 14 (b) A trust for the care of a designated domestic or pet animal
- 15 is subject to the following requirements:

1 (1) Except as expressly provided otherwise in the trust  
2 instrument, the principal or income shall not be converted to the  
3 use of the trustee or to any use other than for the trust's purposes  
4 or for the benefit of a covered animal.

5 (2) Upon termination of the trust, the trustee shall distribute the  
6 unexpended trust property in the following order:

7 (A) As directed in the trust instrument.

8 (B) If the trust was created in a nonresiduary clause in the  
9 ~~trustor's settlor's will or in a codicil to the trustor's settlor's will,~~  
10 under the residuary clause in the ~~trustor's settlor's will.~~

11 (C) If the application of subparagraph (A) or (B) does not result  
12 in distribution of unexpended trust property, to the ~~trustor's~~  
13 ~~settlor's heirs under Section 21114.~~

14 (3) For the purposes of Section 21110, the residuary clause  
15 described in subparagraph (B) of paragraph (2) shall be treated as  
16 creating a future interest under the terms of a trust.

17 (c) The intended use of the principal or income may be enforced  
18 by a person designated for that purpose in the trust instrument or,  
19 if none is designated, by a person appointed by a court. ~~Any In~~  
20 ~~addition to a person identified in subdivision (a) of Section 17200,~~  
21 ~~any person interested in the welfare of the pet animal or any~~  
22 ~~nonprofit charitable organization whose that has as its principal~~  
23 ~~activity is the care of animals may apply to the court for~~  
24 ~~appointment as trustee to enforce the trust or for removal of a~~  
25 ~~trustee for a violation of this section. petition the court regarding~~  
26 ~~the trust as provided in Chapter 3 (commencing with Section~~  
27 ~~17200) of Part 5.~~

28 (d) ~~(4)~~ If a trustee is not designated or no designated *or*  
29 *successor* trustee is willing or able to serve, a court shall name a  
30 trustee. A court may order the transfer of the trust property to a  
31 *court-appointed* trustee, if it is required to assure that the intended  
32 use is carried out and if a successor trustee is not designated in the  
33 trust instrument or if no designated successor trustee agrees to  
34 serve or is able to serve. A court may also make all other orders  
35 and determinations as it shall deem advisable to carry out the intent  
36 of the ~~transferor~~ *settlor* and the purpose of this section.

37 ~~(2) (A) If~~

38 (e) *The accountings required by Section 16062 shall be provided*  
39 *to the beneficiaries who would be entitled to distribution if the*  
40 *animal were then deceased and to any nonprofit charitable*

1 *corporation that has as its principal activity the care of animals*  
2 *and that has requested these accountings in writing. However, if*  
3 *the value of the assets in the pet trust does not exceed five forty*  
4 *thousand dollars (\$5,000) (\$40,000), no filing, report, registration,*  
5 *periodic accounting, separate maintenance of funds, appointment,*  
6 *or fee is required by reason of the existence of the fiduciary*  
7 *relationship of the trustee, unless ordered by the court or required*  
8 *by the trust instrument.*

9 ~~(B) If the value of the trust assets exceed five thousand dollars~~  
10 ~~(\$5,000), the trustee shall submit to the court an accounting of the~~  
11 ~~assets in the trust within 60 days of the trustee's appointment.~~  
12 ~~Thereafter, the trustee shall submit to the court an accounting of~~  
13 ~~the trust assets biennially. No hearing on the accounting shall be~~  
14 ~~required. The court may, for good cause and after reviewing the~~  
15 ~~accounting submitted by the trustee, order a hearing on the~~  
16 ~~accounting, with notice given to residuary beneficiaries of the~~  
17 ~~trustor's will, to other named beneficiaries in the trust, and to the~~  
18 ~~trustor's heirs under Section 21114. The court may, after the~~  
19 ~~hearing, issue orders necessary to ensure that the purpose of the~~  
20 ~~trust is carried out.~~

21 ~~(e) Notwithstanding Section 15211, a trust for the care of a~~  
22 ~~covered domestic or pet animal that has a life span of 21 years of~~  
23 ~~age or greater shall terminate when that designated animal dies.~~

24 *(f) Any beneficiary, any person designated by the trust*  
25 *instrument or the court to enforce the trust, or any nonprofit*  
26 *charitable corporation that has as its principal activity the care*  
27 *of animals may, upon reasonable request, inspect the animal, the*  
28 *premises where the animal is maintained, or the books and records*  
29 *of the trust.*

30 *(g) A trust governed by this section is not subject to termination*  
31 *pursuant to subdivision (b) of Section 15408.*

32 *(h) Section 15211 does not apply to a trust governed by this*  
33 *section.*